

ORDINANCE NO. _____, SERIES 2008

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO COUNCIL AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND SALE OF LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ADJUSTABLE RATE INDUSTRIAL BUILDING REVENUE BONDS, SERIES 2008 (ST. MARY ACADEMY PROJECT) AND TAKING OTHER RELATED ACTION. **[Amend by Substitution]**

Sponsored by Councilman Kelly Downard

Recitals

A. Louisville/Jefferson County Metro Government ("Metro Government") is a consolidated local government and political subdivision of the Commonwealth of Kentucky (the "Commonwealth") and as such is authorized by the Industrial Buildings for Cities and Counties Act, as amended, Sections 103.200 to 103.285 of the Kentucky Revised Statutes (the "Act"), to issue industrial building revenue bonds and to loan the proceeds thereof to any person to finance the cost of any "industrial building" (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities, in order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

B. Roman Catholic Bishop of Louisville, a Kentucky nonprofit corporation doing business as St. Mary Academy (the "Borrower"), has applied to Metro Government for the issuance of industrial building revenue bonds of Metro Government (the "Bonds") and the loan of the proceeds thereof to the Borrower to finance the acquisition of land at Brownsboro Road (Kentucky Highway 1694) and Schuler Lane in Norton Commons within the Louisville/Jefferson County Metro and the construction thereon of buildings containing classrooms, a cafeteria, meeting rooms, and office space for use and occupancy by the Borrower in furtherance of its nonprofit purposes of providing elementary and pre-school education and not for use as a place of religious worship (the "Project", as more particularly described in the Loan Agreement hereinafter mentioned).

C. The Borrower has applied to Metro Government for the issuance pursuant to the Act of industrial building revenue bonds of Metro Government in the principal amount of \$10,100,000 (the "Bonds") and the loan of the proceeds thereof to the Borrower for the purpose of financing the costs of acquiring and constructing the Project.

D. Pursuant to KRS 103.230(1), the Borrower has requested in writing of the Mayor of Metro Government that the sale of the Bonds be made privately upon a negotiated basis to Fifth Third Securities, Inc. (the "Underwriter").

E. Prior to the issuance of the Bonds and following published notice, the Jefferson County Attorney or an Assistant County Attorney as hearing officer will have conducted a public hearing on behalf of Metro Government affording an opportunity for members of the public to express their views regarding the Project and the Bonds.

F. In order to accomplish the public purposes of promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein, Metro Government considers it necessary and proper to [i] authorize the issuance and sale of the Bonds and the loan of the proceeds thereof to the Borrower to finance costs of the Project, [ii] authorize the execution and delivery of the Bond Documents hereinafter identified, [iii] authorize the distribution of the Offering Circular hereinafter identified, and [iv] take other related action.

NOW, THEREFORE, BE IT ORDAINED by the Legislative Council of the Louisville/Jefferson County Metro Government (the "Metro Council") as follows:

1. Public Purposes. Metro Council hereby finds and declares that the issuance of the Bonds and the loan of the proceeds thereof to the Borrower to finance costs of the Project, as herein provided, will further the public purposes of the Act by promoting the economic development of the Commonwealth, relieving conditions of unemployment, and encouraging the increase of industry therein.

2. Authorization of the Bonds and the Project. For the purposes set forth in the preamble hereto, there is hereby authorized and directed:

A. the issuance, execution, sale, and delivery of the Bonds, as provided in the Indenture and the Bond Purchase Agreement hereinafter identified;

B. the loan of the proceeds of the Bonds to the Borrower to finance costs of the Project, as provided in the Loan Agreement hereinafter identified;

C. the execution and delivery on behalf of Metro Government of the Bond Documents hereinafter identified; and

D. the distribution to potential purchasers of the Bonds of the Offering Circular hereinafter identified.

3. Authorization of Bond Documents. The Mayor or Deputy Mayor, and the Metro Council Clerk or Deputy Metro Council Clerk, are hereby authorized and directed to execute and deliver on behalf of Metro Government the following documents (collectively, the "Bond Documents"), substantially in the respective forms attached hereto as exhibits, with such changes therein as the officers executing such documents on behalf of Metro Government shall approve, as shall be conclusively evidenced by their execution and delivery thereof:

A. Bond Purchase Agreement by and among Metro Government, the Borrower, and the Underwriter (Exhibit A)

B. Trust Indenture by and between Metro Government and The Bank of New York Trust Company, N.A., as trustee (the "Trustee") (Exhibit B)

C. Loan Agreement (the "Loan Agreement") by and between Metro Government and the Borrower (Exhibit C) and

D. Tax Compliance Agreement by and among Metro Government, the Borrower, and the Trustee (Exhibit D).

4. Authorization of Offering Circular. Metro Council hereby authorizes the distribution to potential purchasers of the Bonds of an Offering Circular relating to the Bonds, substantially in the form attached hereto as Exhibit E, with such changes therein as the Mayor or Deputy Mayor shall approve, as shall be conclusively evidenced by the execution and delivery of the Bond Documents. The Offering Circular is declared to be in a form "deemed final" for purposes of 15c2-12(b)(1) of the Securities and Exchange Commission.

5. Further Acts and Deeds. The Mayor, the Deputy Mayor, the Metro Council Clerk, the Deputy Metro Council Clerk, and other appropriate officers and employees of Metro Government are hereby authorized and directed to execute, acknowledge, and deliver on behalf of Metro Government any and all papers, instruments, certificates, affidavits, and other documents and to do and cause to be done any and all acts and things necessary or proper for entering into, delivering, and performing this ordinance, the Bond Documents, the Offering Circular, and the Bonds, provided that neither Metro Government nor any of its elected officials, officers, employees, or agents incur any general liability thereby.

6. No Sectarian Use of Bond Proceeds. As further provided in the Loan Agreement, none of the proceeds of the Bonds shall be used, directly or indirectly, to pay, to reimburse the Borrower for the payment of, or to refund indebtedness the proceeds of which were used to pay, for the acquisition, construction, renovation, remodeling or equipping or any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or similar persons in the field of religion.

7. Limited Liability. No recourse shall be had for the payment of the principal of or premium or interest on any of the Bonds or for any claim based thereon or upon any obligation, covenant or agreement therein contained against any past, present or future elected official, officer, employee, or agent of Metro Government, as such, either directly or through Metro Government, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such elected officials, officers, employees, or agents as such shall be expressly waived and released as a condition of and consideration for the enactment of this ordinance and the issuance of the Bonds.

8. Bonds Not a General Obligation. **THE BONDS SHALL NOT BE A GENERAL OBLIGATION OR INDEBTEDNESS OF METRO GOVERNMENT, THE COMMONWEALTH OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF THE CONSTITUTION AND THE LAWS OF THE**

COMMONWEALTH BUT SHALL BE PAYABLE SOLELY FROM THE LOAN REPAYMENTS TO BE MADE BY OR ON BEHALF OF THE BORROWER TO METRO GOVERNMENT PURSUANT TO THE LOAN AGREEMENT AND ANY SECURITY PLEDGED THEREFOR.

9. Severability. The provisions of this ordinance are severable, and if any section, phrase, or provision other than Section 6 hereof shall for any reason be declared invalid or unenforceable, such declaration shall not affect the validity of the remainder of this ordinance.

10. Prior Conflicting Actions Superseded. To the extent that any prior ordinance or resolution of Metro Government is in conflict with the provisions of this ordinance, the provisions of this ordinance shall prevail and be given effect.

11. Effective Date. This ordinance shall be in full force and effect from and after its enactment and publication as provided by law.

INTRODUCED, SECONDED, AND GIVEN FIRST READING at a duly convened regular meeting of the Louisville/Jefferson County Metro Council held on _____, 2008.

GIVEN SECOND READING AND ENACTED at a duly convened regular meeting of the Louisville/Jefferson County Metro Council held on _____, 2008, signed by the Mayor of Metro Government as evidence of his approval, attested under seal by the Metro Council Clerk, and ordered to be published in summary form, filed, and indexed as provided by law.

Kathy Herron
Metro Council Clerk

Jim King
President of the Metro Council

Jerry E. Abramson, Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

By: _____

Assistant County Attorney

CERTIFICATION

The undersigned certifies that she is the duly appointed and acting Council Clerk of the Louisville/Jefferson County Metro Council, that the foregoing ordinance was duly adopted at a duly convened meeting of the Council held on _____, 2008, that all actions taken in connection with such ordinance were in compliance with the requirements of KRS 61.800 to 61.850, and that said ordinance is now in full force and effect, all as appears from the official records of Metro Government in my custody and under my control.

Council Clerk

(SEAL)

Dated: _____, 2008

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